

## Lease Agreement

This Lease Agreement (the "Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020 (the "Effective Date"), by and between the Town of Erie, a Colorado municipal corporation with an address of P.O. Box 750, Erie, CO 80516 (the "Town"), and the Diana Shannon Living Trust, a Colorado trust with an address of 1385 Rosewood Avenue, Apartment 204, Boulder, Colorado ("Lessor") (each a "Party" and collectively the "Parties").

Now, therefore, in consideration of the promises and the mutual covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Property. Lessor owns the vacant real properties located at 130 Wells Street and 570 Kattell Street, Erie, Colorado (collectively, the "Property"). Subject to the provisions of this Agreement, the Town hereby leases the Property from the Lessor. The Town has inspected the physical condition of the Property and receives the Property in "as is" condition.

2. Term and Termination.

a. *Term*. The term of this Agreement shall commence on November 11, 2020, and shall continue up to and including February 29, 2021 (the "Term").

b. *Termination*. This Agreement may be terminated by the Town, in the Town's sole discretion, upon 30 days' prior written notice to Lessor.

3. Rent and Security Deposit. The rent shall be \$1.00 for the entire term of this Agreement, payable on the Effective Date. There shall be no security deposit, but the Town agrees that, upon termination of the Term, the Town shall restore the Property to its original condition, ordinary wear and tear excepted.

4. Use and Occupancy.

a. *Use Limitations*. The Town shall use the Property for a public ice rink and associated facilities, including without limitation fencing and parking.

b. *Alteration of Property*. The Town may install all necessary components for use of the Property for a public ice rink, including without limitation the utilities needed therefor.

c. *Hazardous Materials and Substances*. The Town shall at all times comply with all applicable laws, including without limitation all current and future federal, state and local statutes, regulations, ordinances and rules relating to, without limitation, the following: the emission, discharge, release or threatened release of a Hazardous Material into the air, surface water, groundwater or land; the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation

or investigation of a Hazardous Material; the protection of human health, safety or the indoor or outdoor environment; all applicable environmental statutes of the State of Colorado; and all federal, state or local statutes, laws, ordinances, resolutions, codes, rules, regulations, orders or decrees regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect.

d. *Maintenance.* The Town shall keep and maintain the Property in a sanitary condition and comply with all fire, safety, health, environmental, building, zoning, anti-discrimination and all other laws regulating the use of the Property now or hereafter in force.

e. *Conduct.* The Town shall not cause or permit any disorderly conduct, noise or nuisance upon or about the Property which may annoy or disturb other tenants located in the Property or persons on adjacent property.

f. *Covenant of Quiet Enjoyment.* Lessor covenants that the Town shall enjoy quiet and undisturbed possession of the Property during the term period and any subsequent renewal term, subject to the terms and conditions of this Agreement.

g. *Signage.* The Town shall have the right to install signs upon the Property. The Town shall remove all such signs at the termination of this Agreement. Such installations and removals shall be made in such manner as to avoid injury or defacement of the Property.

h. *Utilities.* The Town shall install the utilities necessary to operate the public ice rink and shall pay for the cost of all utilities and services, of every kind and nature, used in the operation of the public ice rink. Service shall be designated in the name of the Town once installation is completed. The Town shall pay for such costs directly.

5. Indemnification. To the extent permitted by law, the Town agrees to indemnify Lessor from and against all liability resulting from bodily injury, property damage, personal injury or advertising injury arising out of the Town's use of the Property under this Agreement; provided that the Town shall never be liable for punitive or exemplary damages; and provided that the Town's liability under this Section shall not exceed the limits of the Town's insurance coverage.

6. Miscellaneous.

a. *Integration.* This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

b. *Severability.* If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement

shall not be affected, and each provision of this Agreement shall be valid and enforceable to the extent permitted by law.

c. *Governing Law and Venue.* This Agreement shall be governed and construed in accordance with the laws of the State of Colorado, and any legal action arising out of this Agreement shall be brought in Weld County, Colorado.

d. *Notice.* Any notice under this Agreement shall be in writing and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the other Party at the address set forth on the first page of this Agreement.

e. *Successors.* This Agreement shall inure to the benefit of and be binding upon the Parties and their respective heirs, successors, representatives, administrators, executors and devisees.

f. *Assignment and Subletting.* The Town shall not assign this Agreement or sublet any portion of the Property without the prior written notice to Lessor.

g. *No Waiver.* A failure of a Party to enforce any term of this Agreement shall not be deemed to be a waiver of any other term of this Agreement.

h. *Subordination.* This Agreement is and shall be subordinate to all existing and future liens and encumbrances against the Property.

i. *No Joint Venture.* Notwithstanding any provision hereof, the Town shall never be a joint venture in any private entity or activity which participates in this Agreement, and the Town shall never be liable or responsible for any debt or obligation of any participant in this Agreement.

j. *Governmental Immunity.* Nothing herein shall be construed as a waiver of any protections or immunities the Town may have under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended.

k. *No Third-Party Beneficiaries.* There are no intended third-party beneficiaries to this Agreement.

In witness whereof, the Parties have executed this Agreement as of the Effective Date.

**Town of Erie, Colorado**

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Malcolm Fleming, Town Administrator

Attest:

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Heidi Leatherwood, Town Clerk

**Lessor:**

DocuSigned by:  
  
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STATE OF COLORADO            )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

Subscribed, sworn to and acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_ of the Diana Shannon Living Trust.

My Commission expires:

(SEAL)

\_\_\_\_\_  
Notary Public